

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF GEORGIA  
ATLANTA DIVISION**

BREND A BATES, as Representative of	)	
the Estate of Jimmy Atchison and on	)	
behalf of his minor children; and	)	
LAKEISHA JAMES	)	
	)	
Plaintiffs,	)	
	)	Civil Action No.
	)	1:20-cv-04074-AT
v.	)	
	)	
THE CITY OF ATLANTA, SUNG KIM,	)	
KELLY LAMBERT, MARK GARDNER,	)	
CHRISTIAN MALSTROM, SCOTT	)	
PRIESTLY, MATTHEW WINN, and	)	
OFFICERS JOHN DOE #1-5,	)	
	)	
Defendants.	)	

**JOINT STATUS REPORT**

COME NOW, the Parties, as represented by the signatures of their respective counsel below, and hereby files this joint status report showing this Court as follows:

**PROCEDURAL POSTURE**

Pursuant to an Order entered by this Court on June 20, 2023, the Court lifted a previously entered stay of discovery except for Plaintiffs' claims against Defendant Kim. Since then, the depositions of the following parties and non-parties have been taken: Christian Malstrom, Scott Priestly, Kelly Lambert, Matthew Winn, Lakeisha

James. More recently, the Parties have taken the depositions of Brenda Bates, Paul Costa, Alan Ambercrombie, Arthur Nixon, Lonnie Hood, and Hajredin Zenelaj.

The criminal charges against Defendant Kim are still pending in *State of Georgia v. Sung Kim*, 1:23-cv-00113-MLB. On May 5, 2025, Defendant Kim provided testimony at an evidentiary hearing in the criminal matter, which is still pending a ruling on Defendant Kim's immunity motion. As with previous testimony from the criminal case, the Parties will request a copy of the transcript of Defendant Kim's testimony, which undoubtedly relate to the underlying facts and circumstances giving rise to Plaintiff's claims in this lawsuit.

### **OUTSTANDING DISCOVERY**

Prior to the expiration of the May 2, 2025, discovery deadline, the Parties had discussed and agreed to request an additional discovery extension but were unable to file this motion prior to expiration of discovery, due in part to depositions being taken in this case during the week of April 29, including the deposition of Agent Costa in Washington, D.C. that was taken on May 2. While the Parties have conducted numerous depositions, not all depositions that are sought by the Parties have been taken.

Prior to May 2, 2025, the Parties had agreed to the deposition of FBI agent Chevyoryes Gibson to be taken in Detroit Michigan. In fact, as required by the Department of Justice (DOJ), prior to May 2, Plaintiff noticed the deposition of

Gibson, (Doc. # 177), prepared and served upon counsel a subpoena for this deposition, and has submitted a written request to DOJ for authorization to take this deposition pursuant to *United States ex rel. Touhy v. Ragen*, 340 U.S. 462 (1951) and 20 C.F.R. Part 403.

Other than Defendant Kim, the only remaining party depositions that have not been taken is Defendant Gardner, which the Parties intend to schedule prior to the proposed discovery extension. As for the remaining non-party depositions, the Parties agree that it would be preferable to take those depositions after the stay is lifted regarding discovery directed to Defendant Kim. Among the remaining depositions the Parties intend to notice are the following: Aurelio Feliberty, Mason Mercure, Darlene Scott, Timothy Turner, and Mark Cooper, all of whom were on the scene and involved in the task force efforts leading to the apprehension and death of Jimmy Atchison.

While the Parties have been diligent in scheduling depositions, this process is often delayed based on the schedules of counsel, the availability of witnesses, and the need to obtain advance approval from the Department of Justice regarding depositions, pursuant to *United States ex rel. Touhy v. Ragen*, 340 U.S. 462 (1951) and 20 C.F.R. Part 403. Because the subject matter of this lawsuit relates to the actions of a federal task force, and federal task force officers, the Parties must comply with the requirement of *Touhy*.

**WHEREFORE**, for the reasons shown above, the Parties request that the Court reopen discovery for the limited period and purpose set forth herein, through and including June 30, 2025. If granted, upon expiration of this deadline, the Parties request that any further discovery and proceedings be stayed until the Parties are allowed to proceed with discovery directed to Defendant Kim; and request a status conference with the Court to address their respective positions regarding the timing of filing dispositive motions.

Respectfully submitted this 9<sup>th</sup> day of May, 2025.

**Prepared by:**

/s/ Sam Starks

Sam Starks, Esq.

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**Consented to by:**

/s/ Ken Davis

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/s/ Taylor W. Hensel

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**No Position Taken:**

/s/ Donald F. Samuel

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Georgia Bar No. 624475  
Garland, Samuel, & Loeb, P.C.  
Attorney for Defendant Sung Kim

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**CERTIFICATE OF SERVICE AND COMPLIANCE**

I certify that I electronically filed the within and foregoing JOINT STATUS REPORT with the Clerk of Court using the CM/ECF system. Pursuant to the Local Rules of the Northern District of Georgia, the above-signed counsel certifies that the foregoing document complies with all formatting requirements of the Local Rules and further certifies that this document is printed in Times New Roman font, 14-point, pursuant to Local Rule 5.1(C).

Respectfully submitted this 9<sup>th</sup> day of May, 2025.

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Cochran Firm Atlanta  
Attorney for Plaintiffs